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Attorney Docket No. FPY-048.04

REMARKS

This Response is filed in reply to the Office action dated June 2, 2004. Claims 1-61 are pending in the application.

In paragraphs 5-7 of the Office action, the Examiner rejected claims 1-61 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patents Nos. 6,706,348, 6,361,299, and 6,004,639, respectively. In response, Applicants submit terminal disclaimers in compliance with 37 C.F.R. § 1.321(c). But Applicants traverse a similar rejection of these claims, set forth in the Examiner's paragraphs 1-4, based on claim 1 of U.S. Patents Nos. 6,016,845, 6,148,866, 6,286,558.

Applicants' claims 1, 38, and 50 all recite a composite tube that includes an energy conductor extending along at least a portion of its length and a sensor coupled to the wall of the tube and capable of sensing an ambient condition of the tube and communicating a signal based on the sensed ambient condition to the energy conductor. Applicants recognized that a sensor coupled to the wall of the tube could provide operators of the tube with important information regarding the ambient conditions, such as temperature, pressure, and axial strain that a spoolable tube can experience during oil-well operations. Determining such conditions enables operators to make appropriate decisions regarding down-hole operations. It can also alert the operators of impending tube failure or of adverse conditions inside the well, and thereby enable them to take remedial action.

While the claims of issued patent Nos. 6,016,845, 6,148,866, and 6,286,558 recite composite tubular members that may include an energy conductor, that "provides a path for passing power, communication or control signals from the surface down through the tube to a machine attached to the end of the tube" (for example, patent No. 6,016,845, at col. 16's lines 22-25), none of these claims recites a sensor, and certainly not a sensor coupled to the wall of the tube, as Applicants' claim 1 does. Furthermore, nowhere do the above-cited patents suggest determining the ambient conditions in an oil well for any reason. Since

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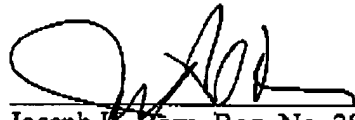
these issued patents are not directed to basing operational control of the composite tubing on the ambient conditions that the tubing experiences, they provide no motivation for adding to the composite tubing a "sensor coupled to the wall of the tube" that is "capable of sensing an ambient condition of the tube and communicating a signal based on the sensed ambient condition to the energy conductor."

So all independent claims define subject matter that is patentably distinct from that recited by the above-cited issued patents' claims. Applicants therefore traverse the Examiner's rejections of the independent claims and all other claims, which depend on them, and respectfully request that the Examiner withdraw her rejections.

In view of the foregoing remarks, Applicants request that the Examiner reconsider and withdraw the pending rejections.

Respectfully submitted,

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